

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2011, Legislative Day No. 20
Resolution No. 130-11

Mr. John Olszewski, Sr., Chairman
By Request of County Executive

By the County Council, December 5, 2011

A RESOLUTION to authorize the County to accept as a gift from Catonsville Rails to Trails, Inc. ("CRTT") all of the property of the Caton and Loudon Railway Company (the "Railway"), as described and shown on Exhibits A and A-1 (the "Property"), and to authorize the County to enter into a license agreement with CRTT, substantially in the form attached hereto as Exhibit C (the "License Agreement"), for the purpose of trail construction, management and maintenance.

WHEREAS, CRTT intends to apply, together with the County and the Railway, to the Surface Transportation Board, an agency of the United States Department of Transportation, for authorization, pursuant to the §1247(d) of the National Trails Systems Act, (16 U.S.C. § 1241, *et seq.*), for interim trail use/railbanking, over the rights-of-way along the Caton and Loudon Railway in Catonsville, Maryland described on Exhibit A to permit CRTT to construct a hiking and biking trail thereon; and

WHEREAS, CRTT intends to acquire, by donation, all of the stock of the Railway, the sole asset of which is the Property, and CRTT has offered to convey the Property to the County as a gift; and

WHEREAS, Section 306 of the Baltimore County Charter vests in the County Council the power to accept gifts and grants; and

WHEREAS, pursuant to the provisions of the License Agreement, CRTT has agreed to complete construction of a bicycle and walking trail on the Property and to maintain the trail at its expense for a period of ten (10) years after completion of construction and acceptance of the trail by the County.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the County be and is hereby authorized to accept from CRTT a donation of the property described and shown on Exhibits A and A-1, and to enter into a license agreement with CRTT substantially in the form attached hereto as Exhibit C.

BE IT FURTHER RESOLVED, that this Resolution shall take effect from the date of its enactment.

ATTACHMENT A
PROPERTY DESCRIPTION

All that lot or parcel of land situate, lying and being in Baltimore County, Maryland and more particularly described as follows:

Being part of the land known as "Catonsville Short Line Railroad Right of Way as of 1883", re-surveyed by S.J. Martenet & Co. dated 1923, as shown on Sheets numbered 3 thru 7, attached hereto as Attachment A-1, and being part of the railroad spur varying in width from 70 to 100 feet more or less, in Baltimore County, at an Easternmost point at the Baltimore County boundary line with Baltimore City, Maryland at station 66+63.42 at the center line with a width there of 81.2 feet and continuing Westerly in Baltimore County crossing at Maiden Choice at about station 103 (sheet 4) and continuing Westerly to a former 700 ft. bridge over I-695 at about station 138+56.99 (sheet 6) and continuing Westerly to a crossing under Bloomsbury Ave. at about station 170+34 (sheet 7) to the ending point at about station 180+78.33 (sheet 7), including the Westernmost end of the land mentioned in the Corrective and Confirmatory Deed of Surrender dated October 15, 2009, and recorded among the Land Records of Baltimore County in Liber 29248, folio 182.

[illegible]

RIGHT OF WAY AS OF 1883

THE NORTH LINE OF RIGTH BETWEEN STATIONS 14 AND 24 IS MEASURED TO BE 100 FT. OF MARGINAL SURVEY.

[illegible]

NO RECORD

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Liquid Park

[illegible]

NOTE: THE COPIES ARE REFERRED TO THE FILE MISSION

✓

James - 1001 2nd St. N. W. Wash. D.C.

CATONSVILLE SHORT LINE RAILROAD

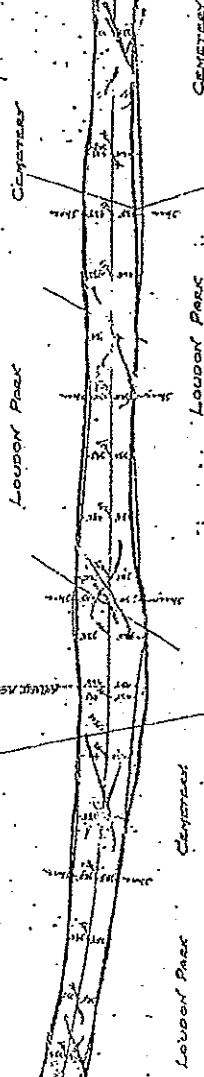
RIGHT OF WAY AS OF 1883

This Map of Right of Way between Streets 39, 40, 41 is prepared to show with Land to be sold as
 Response subsequent to Date of Original Survey

NO RECORD

SEE NOTE SHEET 1-1

See Clark, Remus, Map
 at 1010



NOTE: THE CURVES ARE REFERRED TO THE TRUE MERIDIAN

Some property to one inch
 of the original map
 of the original map
 of the original map

SHEET No. 2

CATONSVILLE SHORT LINE RAILROAD

SHEET N° 3

RIGHT OF WAY as of 1883

NO RECORD

SEE NOTE SHEET N° 1

66+68.42

Start

2500' Curve Radius 1134.56'

Baltimore

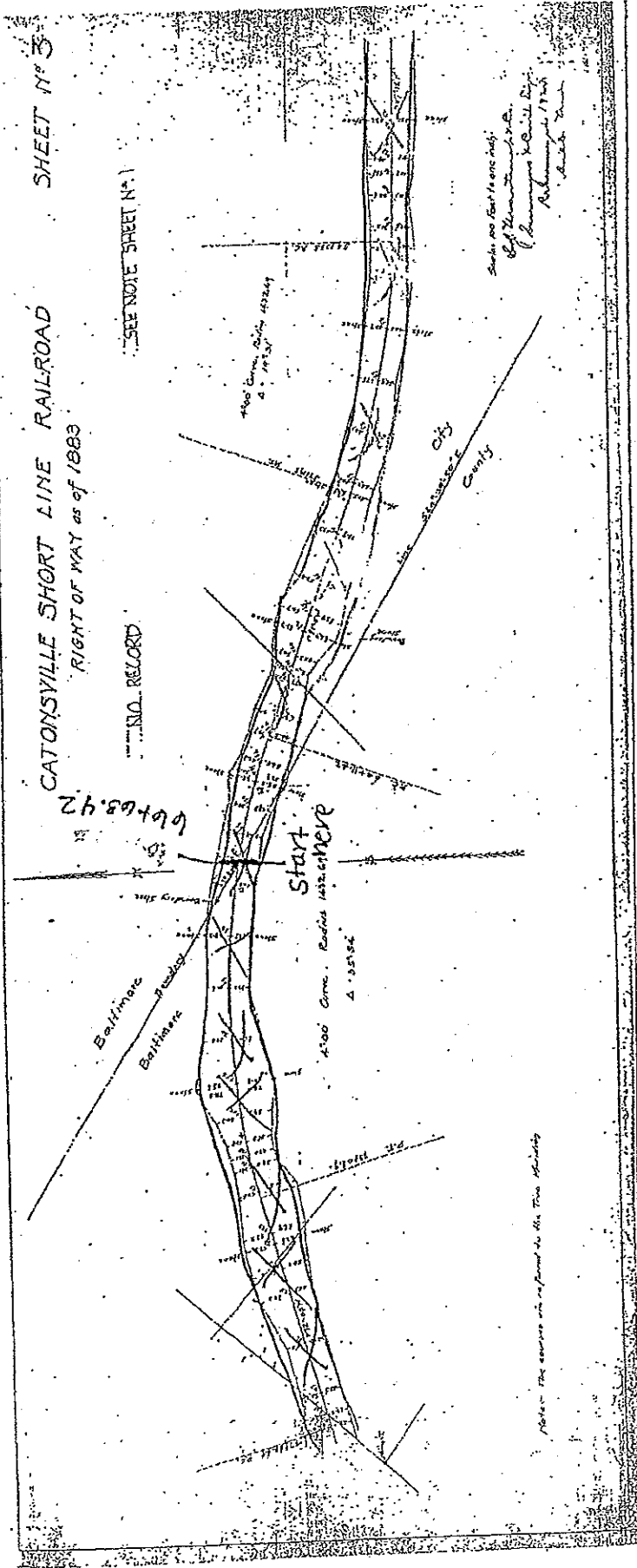
Baltimore

City

County

See Note Sheet N° 1
of the same date
for the location of
the bridge over
the river

Note: The course was confirmed by the Time Surveying



CATONSVILLE SHORT LINE RAILROAD

SHEET NO. 2

RIGHT OF WAY as of 1883

SEE NOTE SHEET NO. 1

UNO RECORD

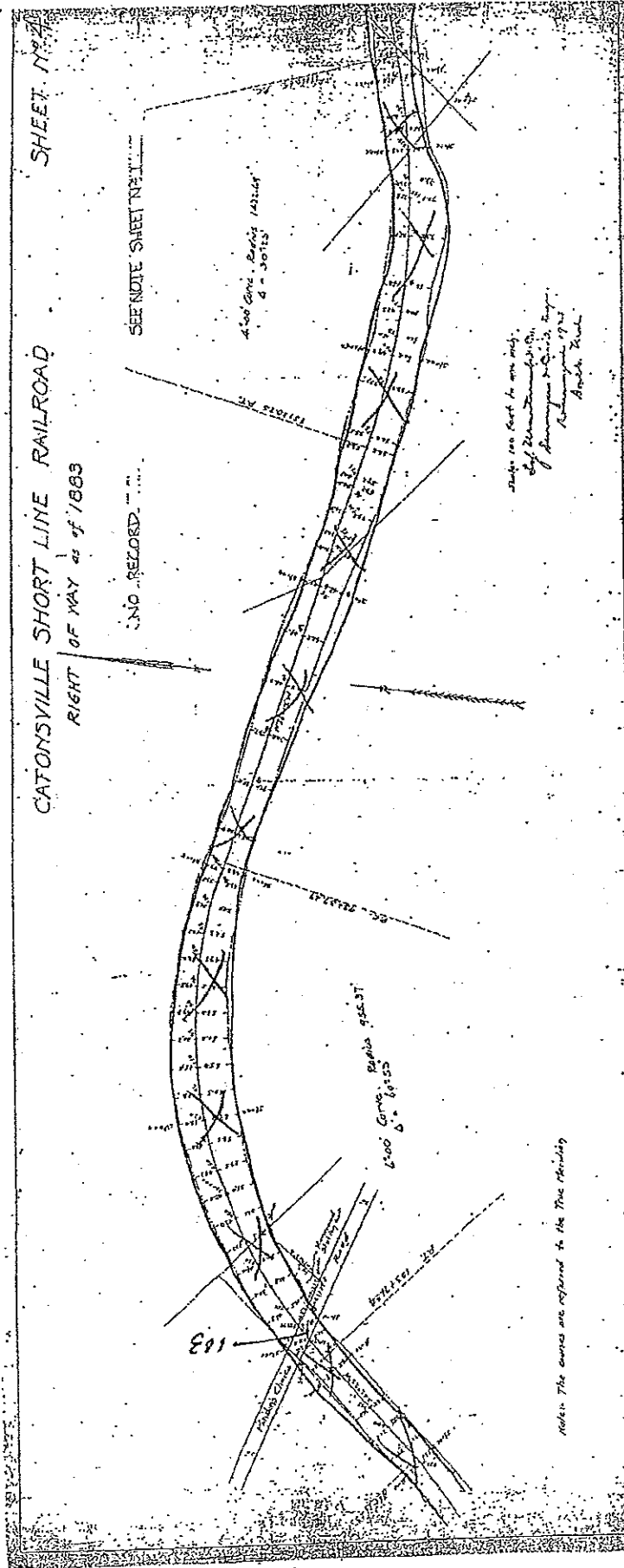
183

2,000 Curve, Radius 955.31
D = 101.23

4,000 Curve, Radius 1910.62
D = 301.23

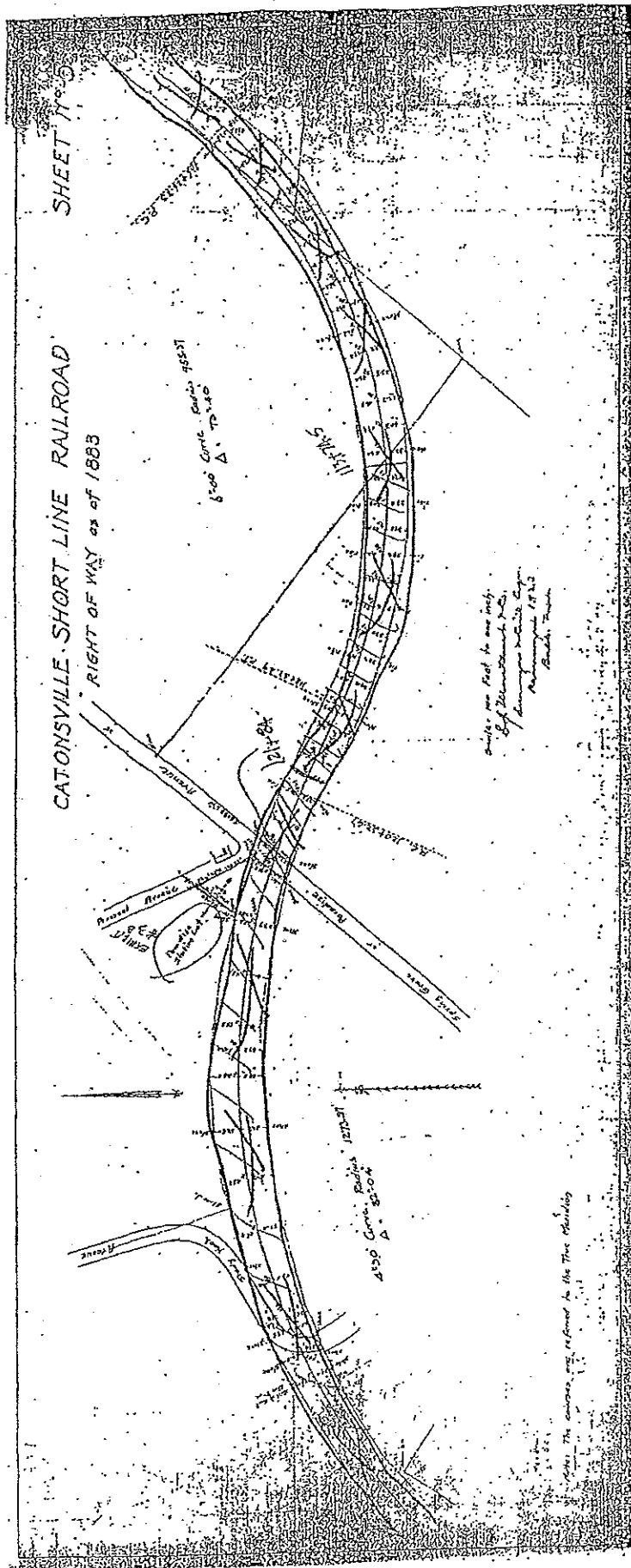
Single 100 feet to one mile.
Def. 200 feet to one mile.
Average 100 feet to one mile.
Average 100 feet to one mile.

Note: The curves are referred to the True Chord



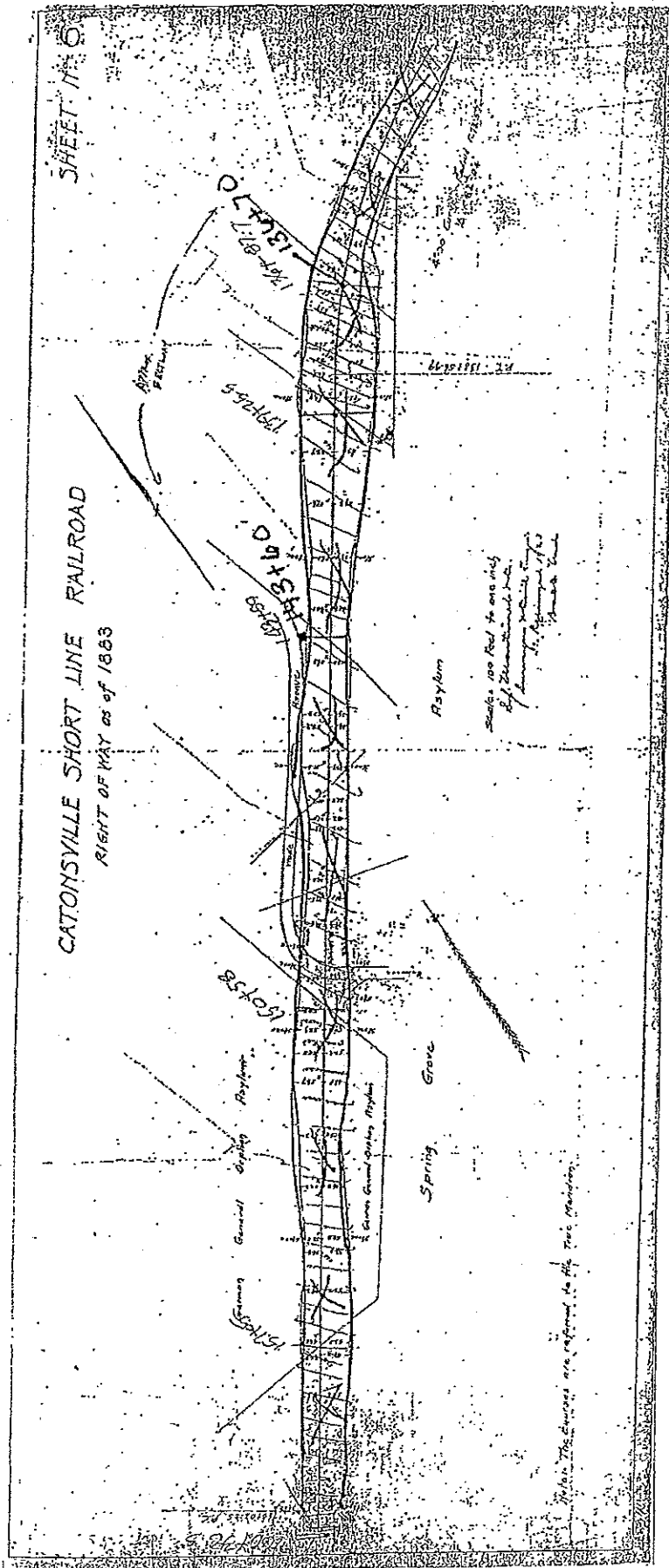
CATONSVILLE SHORT LINE RAILROAD RIGHT OF WAY as of 1883

SHEET No. 3



SHEET No. 6

CATONSVILLE SHORT LINE RAILROAD
RIGHT OF WAY as of 1883



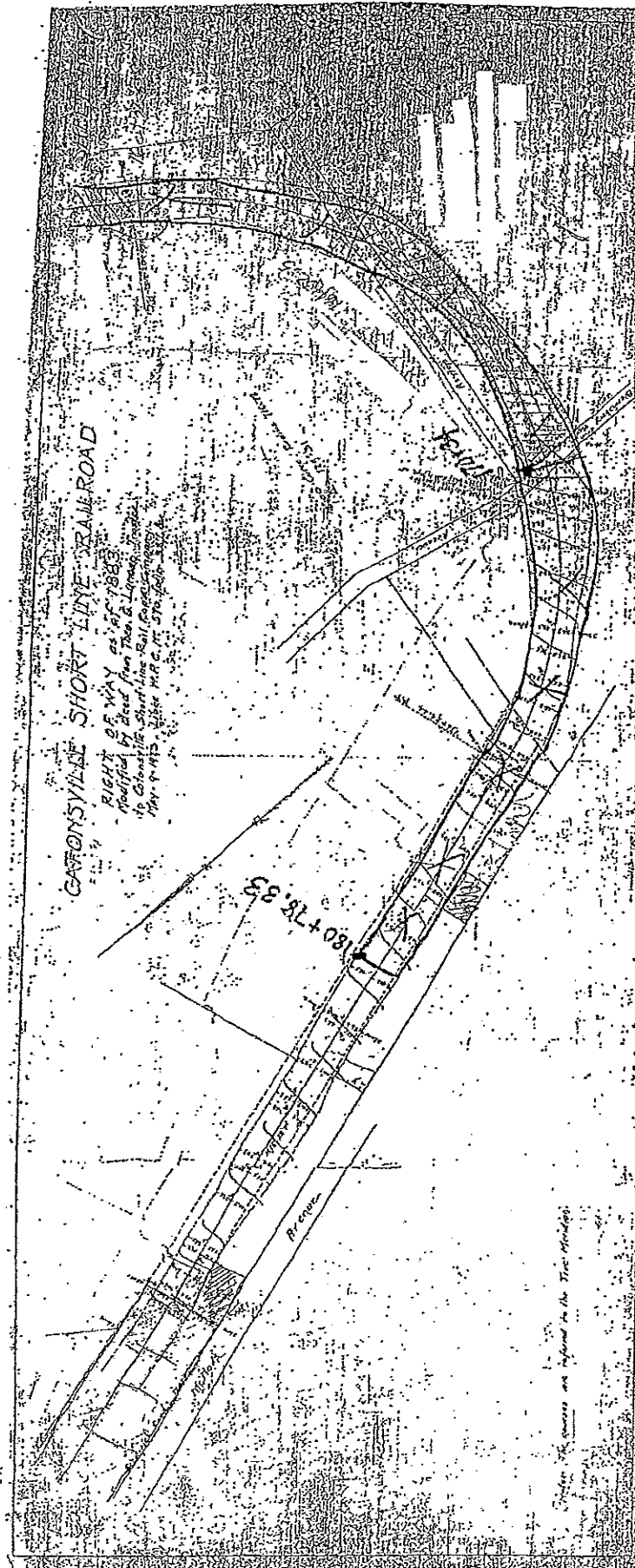


EXHIBIT C
LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") is made this ____ day of _____, 2011 (the "Effective Date"), by and between Catonsville Rails to Trails, Inc., a Maryland non-profit corporation, its successors and assigns ("CRTT") and Baltimore County, Maryland, a body corporate and politic (the "County").

WHEREAS, on June 1, 2006, CRTT and The Caton & Loudon Railroad, Inc., a Maryland corporation (the "Railroad") entered into a lease (the "Lease") of certain property, more fully described therein, for the purpose of enabling CRTT to construct and maintain a recreational bike and walking trail (the "Trail"); and

WHEREAS, the Railroad, CRTT and the County submitted a request with the Surface Transportation Board (the "STB"), an agency of the United States Department of Transportation, and the STB granted authorization for interim trail use/railbanking over the rights-of-way described herein under and pursuant to the §1247(d) of the National Trails Systems Act, (16 U.S.C. § 1241, et seq.); and

WHEREAS, pursuant to an agreement between the parties dated _____, 201____, the stockholders of the Railroad donated all of their shares of stock in the Railroad to CRTT whereupon CRTT became the owner of all of the assets of the Railroad, including, but not limited to, certain rail corridors and all track structures, if any, more particularly described on Attachment A and Attachment A-1 attached hereto and made a part hereof (the "Property"); and

WHEREAS, by deed of even date herewith (the "Deed") CRTT donated to the County, pursuant to the National Trails Systems Act, of all of CRTT's right, title and interest in and to the Property, as a result of which the Lease has merged into the Deed; and

WHEREAS, the parties desire that CRTT continue to construct the Trail, and to provide for maintenance, and other matters concerning the Property, upon the terms and conditions hereinafter set forth to enable the Property and the Trail to be used and enjoyed by County residents and others.

NOW THEREFORE, in consideration of the premises and the mutual rights and obligations of the parties, and for other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the parties agree as follows:

1. The Recitals are hereby incorporated as substantive terms of this Agreement.
2. This Agreement shall commence as of the Effective Date and shall continue for a period of ten (10) years after the date the portion of the Trail built on the Property is deemed by the County to have been completed (the "Term").

3. The County hereby grants CRTT the right, license and privilege to enter upon and use the Property, including the land, buildings, fixtures, and facilities during the Term to construct and maintain the Trail. CRTT covenants and agrees that it shall continue to make any physical changes to the Property necessary for the construction of the Trail, including, but not limited to, (a) the removal of ties, tracks/rails, switches and other railroad improvements and facilities, and (b) adding other improvements to the Property, including paving. All such activities shall be at CRTT's sole cost and expense.

Upon completion of construction, as defined in Attachment B attached hereto and incorporated herein, CRTT shall notify the County, which shall, in its reasonable discretion, determine whether additional construction is required in accordance with Attachment B. If the County determines that no additional construction is required, the Trail shall be deemed to have been completed.

4. During the Term, CRTT shall have full and complete responsibility for the management, operation and maintenance of the Property and the Trail, and financial, managerial and legal responsibility and liability for the Property and the Trail and any use thereof. Without limiting the generality of the preceding sentence, CRTT's operational control during the Term shall include (a) maintenance of buildings, grounds, and facilities, (b) trash and construction debris removal, (c) responsibility for upkeep, including, but not limited to, grass cutting, tree trimming, and trash removal, and (e) development activities of the Property and/or the Trail. This Agreement shall not be construed to create a joint enterprise for the operation of the Property between the County and CRTT.

5. CRTT shall comply with all federal, state, County, municipal, and other governmental statutes, ordinances, laws, and regulations affecting and/or governing CRTT's use of the Property and construction and maintenance of the Trail.

6. CRTT shall grant the County the right to review and comment upon CRTT's proposed plans for the Trail. Further, CRTT shall give full and fair consideration to all reasonable comments and suggestions of the County with respect to the development and use of the Property and the Trail. The Trail shall be constructed to standards set by the County's Department of Recreation and Parks as provided in Attachment B.

7. The County shall have reasonable access to the Property and the Trail at all times. The County shall have the right to inspect all public and non-public areas of the Property and the Trail, and, except in an emergency, shall give CRTT two (2) calendar days' prior notice of any inspection of the Property and/or the Trail. The County shall repair any damage to the Property and Trail caused by said inspections.

8. After the expiration of the Term, the County shall assume full and complete responsibility for the management, operation and maintenance of the Property and the Trail, and CRTT shall provide the County with all necessary keys, lock combinations, and security codes so that the County has access to the Property and the Trail. Thereafter, CRTT shall have no further responsibility or liability hereunder except for those provisions which expressly survive the expiration of this Agreement.

9. After the expiration of the Term, all finished or unfinished work or work product, reports, or goods that are the subject of this Agreement, including any licenses or consents acquired by CRTT for performance hereunder and any and all plans and specifications for the Trail, shall be and shall remain the property of the County. Any improvements constructed or installed on the Property by CRTT, including, but not limited to, the Trail, shall remain on the Property and shall become the Property of the County without the obligation to pay to CRTT any compensation therefor.

10. During the Term, CRTT shall carry liability insurance in sufficient amounts, as deemed appropriate by both CRTT and the County, to protect the interests of both parties hereto in the Property and the Trail throughout the Term of this Agreement. The parties shall look to the insurance referenced in this Section 10 for any claims, actions, damages, liability, and expense (including, but not limited to, reasonable attorneys' fees) in connection with the loss of life, personal injury, or damage to property or business arising from, related to, or in connection with the use permitted herein of the Property by CRTT.

11. CRTT shall defend, indemnify and hold harmless the County, its employees, agents and officials from any and all liabilities, claims, suits, or demands including reasonable attorneys' fees which may be incurred or made against the County, its employees, agents or officials resulting from any act or omission committed in the performance of the duties imposed by and performed under the terms of this Agreement by CRTT or anyone under agreement with CRTT to perform duties under this Agreement, including, but not limited to, the operation, control, maintenance, and development of the Property and the Trail, or arising from the use of the Property or the Trail. CRTT shall not be responsible for acts of gross negligence or willful misconduct committed by the County.

12. This Agreement is not a lease or sale of real or personal property, nor does this Agreement convey or transfer title to any property, rather, this Agreement permits CRTT to license the Property from the County during the Term in accordance with the terms hereof.

13. This Agreement sets forth the entire agreement between the parties relative to the subject matter hereof. No representation, promise or condition, whether oral or written, not incorporated herein shall be binding upon either party to this Agreement. No waiver, modification or amendment of the terms of this Agreement shall be effective unless made in writing and signed by the legally authorized representatives of both parties hereto.

14. This Agreement shall be governed and construed in accordance with the laws of the State of Maryland and Baltimore County, Maryland.

15. If any of the provisions in this Agreement are declared by a court or other lawful authority to be unenforceable or invalid for any reason, the remaining provisions hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by law.

16. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be

deemed to be an original and all of which taken together shall constitute but one and the same instrument.

17. Those sections in this Agreement which by their nature are intended to survive, including but not limited to, Sections 10 (Insurance) and 11 (Indemnification), shall survive the termination of this Agreement.

18. Any notice required to be delivered shall be deemed to have been received when the notice has been sent by certified mail, return receipt, overnight carrier, or hand delivered with signed receipt to the following address and individual or at such other address and/or such other individual as a party may identify in writing to the other party:

To CRTT: Catonsville Rails to Trails, Inc.
Post Office Box 3282
Catonsville, Maryland 21228
Attn: Tom Ajluni, President

with a copy to: Lisa S. Spitulnik, Esquire
Gordon, Feinblatt, Rothman,
Hoffberger & Hollander
Garrett Building
233 East Redwood Street
Baltimore, Maryland 21202

To the County: Baltimore County, Maryland
Department of Recreation and Parks
105 W. Chesapeake Avenue
Towson, Maryland 21204
Attn: Director

With copy to: Baltimore County Office of Law
400 Washington Avenue
Towson, Maryland 21204
Attn: County Attorney

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed the day and year first above written.

WITNESS:

Thomas C. Baggett

Catonsville Rails to Trail, Inc.

By: Thomas Ajluni
Tom Ajluni
President

WITNESS:

Baltimore County, Maryland

By: _____
Fred Homan
County Administrative Officer

REVIEWED AND APPROVED BY:

Barry F. Williams
Barry F. Williams, Director
Department of Recreation and Parks

NO CERTIFICATION NECESSARY

Michael S. Kolbe 9/21/11
Office of Budget and Finance Date
Keith W. Worey

APPROVED FOR LEGAL FORM & SUFFICIENCY*
(Subject to Execution by A Duly Authorized County
Administrative Official and County Council, if Indicated)

Ashley H. Hines 10/03/11
OFFICE OF THE COUNTY ATTORNEY
*Approval of Legal Form and Sufficiency Does Not Convey.
Approval or Disapproval of Substantive Nature of Transaction.
Approval is Based Upon Typeset Document.
All Modifications Require Re-Approval.

BALTIMORE COUNTY COUNCIL

By: _____
Chairman Date